



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 5521-99

27 March 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Ophthalmology ltr, 22 Feb 00
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was assigned a reenlistment code which will permit him to reenlist in the Armed Forces.

2. The Board, consisting of Messrs. Lightle, Pfeiffer and Whitener, reviewed Petitioner's allegations of error and injustice on 9 March 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 2 January 1997. According to the optometrist who examined him on 8 January 1997, Petitioner reported that he was experiencing diplopia (double vision) with his contact lens prescription, and that he had not disclosed that condition when he underwent his pre-enlistment physical examination. The optometrist gave him diagnoses of Duane's syndrome and diplopia, and recommend that he receive an entry level medical separation because of those conditions. He was discharged from the Navy on 17 January 1997, with an uncharacterized, entry level separation, by reason of his failure to meet procurement medical standards. He was assigned a reenlistment code of RE-4, to

indicate he was not eligible or recommended for reenlistment.

d. In correspondence attached as enclosure (2), the Board was advised by the Specialty Advisor for Ophthalmology, in effect, that Petitioner has a congenital condition known as Duane's syndrome, which is not disqualifying for military service. As the condition was present from birth, Petitioner's brain learned to suppress or ignore the vision from his right eye. Thus, the specialty advisor does not believe Petitioner has true diplopia. He noted that the testing performed by the optometrist on 8 January 1997 did not establish the presence of true or functional diplopia, and that Petitioner should not have been disqualified on the basis of those test results.

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding the comments contained in enclosure (2), the Board concludes that Petitioner has failed to submit sufficient credible evidence to demonstrate that his discharge by reason of failure to meet procurement physical standards was erroneous or unjust. In this regard, it notes that the sensation of diplopia is a subjective phenomenon, and on 8 January 1997, Petitioner disclosed that he was experiencing diplopia at that time, as well as prior to enlisting. Had he made that disclosures during the course of his pre-enlistment physical examination, it is unlikely that he would have been permitted to enlist.

The Board notes that a service member separated for failing to meet procurement medical standards may be awarded a reenlistment code of RE-3E or RE-4, at the discretion of the commanding officer. In addition, it noted that the RE-4 is generally assigned in those cases where the member has committed misconduct, or not performed military duty in a creditable manner. In this case, there is no evidence of misconduct or poor performance of duty; accordingly, the Board concludes that the RE-4 was inappropriate.


In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that he was assigned a reenlistment code of RE-3E, vice the code of RE-4 he actually received on 17 January 1997.
- b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

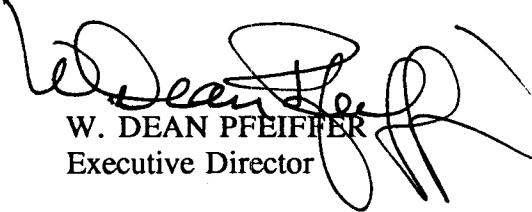
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director